

Message Text

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ACTION ARA-20

INFO OCT-01 ADP-00 CIAE-00 DODE-00 INR-10 NSAE-00 PA-03

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AID-20 TRSE-00 OPIC-12 RSR-01 /105 W

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R 312258Z AUG 73

FM AMEMBASSY LIMA

TO SECSTATE WASHDC 6900

LIMITED OFFICIAL USE SECTION 1 OF 2 LIMA 6467

E.O. 11652: N/A

TAGS: EGIN, PE

SUBJECT: PUBLICATION OF DRAFT SOCIAL PROPERTY LAW

REF: LIMA 6390; LIMA 3816, LIMA 6792 OF 11/7/72, LIMA A-373

OF 10/16/72

1. SUMMARY: DRAFT DECREE LAW ON SOCIAL PROPERTY CONTAINS FEW SURPRISES AND PARALLELS TO CONSIDERABLE EXTENT EARLIER, BOOTLEG DRAFTS WHICH HAD COME TO EMBASSY'S ATTENTION. SOCIAL PROPERTY ENTERPRISES WILL BE OWNED COLLECTIVELY BY WORKERS, AND STATE WILL HAVE LARGE ROLE TO PLAY IN START-UP FINANCING AND FURNISHING FINANCIAL SUPPORT AND GUIDANCE. PRESENT DRAFT ALSO RESEMBLES SO-CALLED "YUGOSLAV MODEL" ENUNCIATED BY YUGOSLAV EXPATRIATE JARASLAV VENEC OF CORNELL (A-373). CONSIDERABLE DOUBTS STILL SURROUNDS QUESTION OF PRECISELY HOW DECREE LAW WILL BE PUT INTO PRACTICE, BUT CLEARER PICTURE MAY EMERGE IN COURSE OF PUBLIC COMMENT ON DRAFT. DURING PRESS CONFERENCE AUG. 29 (LIMA 6420) PRESIDENT VELASCO STRESSED SOCIAL PROPERTY DRAFT LAW SEEKS BENEFIT MAJORITY OF PERUVIANS WHO LACK FUNDS TO BUILD ENTERPRISES BUT WHO OUGHT TO HAVE ACCESS TO PROPERTY, NOTING AS WELL THAT SUGGESTIONS ARE WELCOME PRIOR TO FINAL APPROVAL. END SUMMARY.

2. FOLLOWING IS SUMMARY OF MAJOR FEATURES DRAFT LAW:

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A) INDIVIDUAL UNITS OWNED BY WORKERS. SOCIAL PROPERTY

ENTERPRISES (SPE'S) WILL BE OWNED EXCLUSIVELY BY WORKERS ALLOWING THEM TO SHARE IN "SOCIAL ACCUMULATION", DEFINED AS THE CAPITAL ASSETS OF SPE PLUS ITS ECONOMIC SURPLUS (PROFIT). SPE'S CAN BE STARTED IN ALL ECONOMIC SPHERES EXCEPT THOSE RESERVED SPECIFICALLY TO THE STATE. SPE STARTED IN TWO WAYS: EITHER THROUGH AGREEMENT AMONG FOUNDING WORKERS WHO MUST ESTABLISH OBJECTIVES FOR SPE AFTER OBTAINING APPROVAL OF FEASIBILITY STUDY, OR THROUGH CONVERSION OF EXISTING FIRM WHICH MUST ALREADY BE ECONOMICALLY SOUND AND FINANCIALLY SOLVENT AND WITH THE CONSENT OF A MAJORITY OF THE SHAREHOLDERS. BOTH FULL AND PART-TIME WORKERS CAN BE MEMBERS, CAN LEAVE VOLUNTARILY AND HAVE RIGHT TO VOTE FOR VARIOUS OFFICES OF SPE. HOWEVER, PART-TIME WORKERS CANNOT HOLD OFFICE.

B) MANAGEMENT OF SPE'S. EACH SPE ACTUALLY TO BE RUN BY A GENERAL MANAGER, WITH INDEFINITE TERM, APPOINTED BY WORKERS' ASSEMBLY. SPE'S ORGANIZED INDIVIDUALLY, BUT ALSO GROUPED IN REGIONAL AND NATIONAL HIERARCHY, WITH SOCIAL PROPERTY SECTOR OVERSSEEN BY NATIONAL COMMISSION FOR SOCIAL PROPERTY, COMPOSED OF REPRESENTATIVES FROM PRESIDENCY, MIN ECONFIN, MIN INDUSTRY/COMMERCE, SINAMOS, OTHERS.

C) STATE FINANCING. FIRMS OBTAIN START-UP FUNDS FROM NATIONAL FUND FOR SOCIAL PROPERTY (SUPPORTED BY CENTRAL GOVERNMENT), AND FROM COFIDE, STATE DEVELOPMENT BANK. AMOUNTS NEEDED DEPEND ON FEASIBILITY STUDY, EXISTING FIXED AND LIQUID ASSETS ETC. START-UP FUNDS REIMBURSED TO LENDING AGENCY AT AGREED UPON TERM AND RATE OF INTEREST, OUT OF SPE'S ECONOMIC SURPLUS (PROFIT). A NEW NATIONAL FUND FOR SOCIAL PROPERTY ALSO RECIPIENT OF PART OF SPE'S ECONOMIC SURPLUS. ECONOMIC SURPLUS, AT DISCRETION INDIVIDUAL SPE, CAN BE USED BUY SECURITIES FROM NATIONAL FUND. SPE'S CAN OBTAIN FUNDS BY MEANS OF INDEBTEDNESS AND CAN ISSUE SECURITIES, BUT SUCH DEBT CAN ONLY ENCUMBER FIXED CAPITAL ASSETS. THE SECURITIES ISSUED BY SPE'S, CALLED "ACCIO-BONDS", DO NOT AUTHORIZE HOLDER TO MANAGE OR SHARE IN OWNERSHIP OF SPE. "ACCIO-BONDS" PAY VARIABLE INTEREST BASED ON PROFITS OF FIRM FOR INDETERMINATE PERIOD.

D) NET CAPITAL OF SPE'S. EACH SPE'S CAPITAL ASSETS BROKEN INTO LIMITED OFFICIAL USE

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TWO SEPARATE FUNDS, A "SOCIAL FUND" WHICH CONSISTS PRIMARILY OF START-UP CONTRIBUTIONS PLUS SHARE OF ECONOMIC SURPLUS (PROFIT), AND AN "INTEGRATED FUND" WHICH CONSISTS PRIMARILY OF PART OF ECONOMIC SURPLUS AND FUNDS RECEIVED FROM SALE OF "ACCIO-BOND'S. DEPRECIATION OF FIXED CAPITAL ASSETS AND PERIODIC REVALUATION OF ASSETS AUTHORIZED.

E) PROFITS (CALLED "SURPLUSES"). TAXEX WILL BE LEVIED ON

SPE'S RETAINED EARNINGS. THE SURPLUS WHILE AVAILABLE FOR DIVIDENDS (EL EXCEDENTE DISTRIBUIBLE) WILL BE USED TO PAY INTEREST "ON ACCIO-BONDS" AND WAGES AS WELL AS OTHER COSTS (SERVICIOS COMUNES). WAGES PAID FROM SURPLUSES REPRESENT COMPENSATION FOR WORKERS AND WILL BE DIVIDED EQUALLY BETWEEN ALL IN RELATION TO NUMBER OF MAN-DAYS WORKED PER FISCAL YEAR. SPE'S REQUIRED TRANSFER TO NATIONAL FUND FOR SOCIAL PROPERTY APPROXIMATELY 10 PERCENT OF ECONOMIC SURPLUS.

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F) CERTIFICATES OF PARTICIPATION. WE HAD SEEN PREVIOUSLY SEPARATE DRAFT DECREE LAW WHICH INTRODUCED CONCEPT OF COMPENSATION OF EXPROPRIATION BY MEANS OF "CERTIFICATES OF PARTICIPATION" RATHER THAN BONDS, BUT PRESENT DRAFT DECREE USES TERM "CERTIFICATION" IN DIFFERENT SENSE. IN EFFECT, FINANCIAL INTERMEDIARIES WILL BE REQUIRED MAKE UP INVESTMENT PORTFOLIOS TO GIVE DIRECT ASSISTANCE TO FINANCING OF SPES, AND TO PERMIT, AS DECREE SAYS, SMALL AND MEDIUM SAVERS TO CHANNEL THEIR SAVINGS INTO PRODUCTIVE ACTIVITIES. THE INVESTMENT PORTFOLIO WILL CONSIST IN PART OF SPE "ACCIO-BONDS", AND IN PART OF OTHER GOP BACKED STATE SECURITIES. THE FINANCIAL INTERMEDIARIES WILL ISSUE SECURITIES, CALLED "CERTIFICATE OF PARTICIPATION" WHICH WILL THEN BE TRADED ON LIMA STOCK EXCHANGE. INTEREST ON THESE CERTIFICATES WILL EQUAL THE PRORATED EARNINGS OF THE INVESTMENT PORTFOLIO MINUS THE INTERMEDIARIES "SMALL COMMISSION. IN ADDITION, THE CENTRAL BANK VALUE" OF THESE CERTIFICATES. RETURN ON CERTIFICATES

IS TAX FREE.

G) GOVERNMENT SUPPORT. COFIDE IS DESIGNATED AS PRINCIPAL FINANCIAL SOURCE FOR SPES, AND WILL UNDERWRITE STUDIES LOOKING TOWARD THEIR CREATION. INVESTMENT OPPORTUNITIES WHICH ARISE AS A CONSEQUENCE OF ACTIVITIES OF THE STATE-RUN BASIC INDUSTRIES WILL BE DEVELOPED AS A FIRST PRIORITY BY SPES. FURTHER, PUBLIC AND STATE FINANCIAL INSTITUTIONS WILL MAKE LIMITED OFFICIAL USE

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AVAILABLE MOST FAVORABLE RATES OF INTEREST, GUARANTEES, AND WILL BE OBLIGATED TO ACCEPT INCREASING PROPORTION SPES IN THEIR INVESTMENTS.

3. COMMENT: SUBSTANTIAL PUBLICITY GIVEN TO DRAFT DECREE AND FACT DECREE CIRCULATED FOR PUBLIC COMMENT UNDERLINES GOP DESIRE OBTAIN PUBLIC SUPPORT FOR SPE CONCEPT, AND MAY ALSO INDICATE GOP PLANNERS HARBOR DOUBTS ABOUT ACTUAL APPLICATION AND WISH AIR IDEAS IN PUBLIC FIRST. GIVEN LENGTH AND COMPLEXITY OF DECREE (163 ARTICLES), AND FACT THAT PRESIDENT VELASCO NOT AWARE (AS INDICATED BY COMMENTS AT PRESS CONFERENCE, AUG 29) ABOUT HOW SUGGESTIONS ARE TO BE HANDLED WITH GOP, WE SURMISE FINAL LAW WILL PROBABLY PARALLEL CLOSELY THIS DRAFT UNLESS MAJOR PROBLEMS ARISE. PRIVATE SECTOR WILL PROBABLY VIEW DRAFT AT BEST WITH GUARDED NEUTRALITY AND ADOPT A WAIT AND SEE ATTITUDE. MECHANISM FOR CONTROL OF PRIVATE SECTOR AS PRESENTED IN DRAFT COULD BE BENIGN, BUT ON OTHER HAND, DRAFT FURNISHES SUBSTANTIAL LEEWAY FOR GOP TO REDUCE CREDIT TO PRIVATE SECTOR IF DESIRED AND/OR PRESSURE SHAREHOLDERS OF PROBABLE FIRMS TO LIQUIDATE THEIR HOLDINGS IN ORDER CREATE SPES.

4. EMBASSY POUCHING DRAFT DECREE AND LONG EXPLANATORY STATEMENT PUBLISHED EL PERUANO AUG 31.
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